

# MEMORANDUM

Agenda Item No. 11(A)(6)

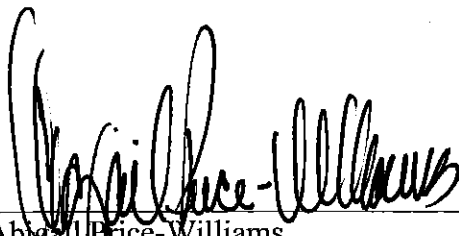
**TO:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

**DATE:** May 15, 2018

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution supporting the Florida Association of Counties in taking legal action to challenge Constitution Revision Commission Proposal 6005, also known as Revision 5, which, among other provisions, would eliminate the right of voters in charter counties to abolish, eliminate election of, or transfer duties of the sheriff, property appraiser, supervisor of elections, tax collector and clerk of courts; authorizing the County Attorney to provide legal support to and collaborate with the Florida Association of Counties on such legal action including, but not limited to, filing an amicus brief

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.

  
Abigail Price-Williams  
County Attorney

APW/jls



# MEMORANDUM

(Revised)

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and Members, Board of County Commissioners

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Abigail Price-Williams  
County Attorney

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Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☒ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 11(A)(6)  
5-15-18

RESOLUTION NO. \_\_\_\_\_

RESOLUTION SUPPORTING THE FLORIDA ASSOCIATION OF COUNTIES IN TAKING LEGAL ACTION TO CHALLENGE CONSTITUTION REVISION COMMISSION PROPOSAL 6005, ALSO KNOWN AS REVISION 5, WHICH, AMONG OTHER PROVISIONS, WOULD ELIMINATE THE RIGHT OF VOTERS IN CHARTER COUNTIES TO ABOLISH, ELIMINATE ELECTION OF, OR TRANSFER DUTIES OF THE SHERIFF, PROPERTY APPRAISER, SUPERVISOR OF ELECTIONS, TAX COLLECTOR AND CLERK OF COURTS; AUTHORIZING THE COUNTY ATTORNEY TO PROVIDE LEGAL SUPPORT TO AND COLLABORATE WITH THE FLORIDA ASSOCIATION OF COUNTIES ON SUCH LEGAL ACTION INCLUDING, BUT NOT LIMITED TO, FILING AN AMICUS BRIEF

**WHEREAS**, on April 16, 2018, the Florida Constitution Revision Commission ("CRC") placed on the statewide November 6, 2018 general election ballot an amendment to the Florida Constitution known as Proposal 6005, also known as Revision 5 ("Proposal 6005/Revision 5"); and

**WHEREAS**, Proposal 6005/Revision 5 entitled "State and Local Government Structure and Operation" bundles together several proposals, including Proposal 13; and

**WHEREAS**, Proposal 13 would preempt the right of local voters in charter counties, including Miami-Dade County, to abolish, eliminate election of, or transfer duties of the sheriff, property appraiser, supervisor of elections, tax collector and clerk of courts; and

**WHEREAS**, Proposal 13 was sponsored by CRC Commissioner Carolyn Timmann, who is the elected clerk of courts in Martin County, and was cosponsored by Commissioner Chris Nocco, who is the elected sheriff in Pasco County, and Commissioner Emery Gainey, who previously was appointed sheriff of Marion County after his predecessor was removed from office; and

**WHEREAS**, in addition to Proposal 13, Proposal 6005/Revision 5 includes three other unrelated proposals that amend five different sections in three different articles of the Florida Constitution:

- Proposal 9, which constitutionally would require the Legislature to provide for a Department of Veterans' Affairs (already authorized in the Florida Constitution);
- Proposal 26, which constitutionally would require the Office of Domestic Security and Counterterrorism within the Department of Law Enforcement (already required in Florida Statutes); and
- Proposal 103, which would require that the Florida Legislature convene for regular session in January in even-numbered years (already authorized in the Florida Constitution and the current practice of the Legislature); and

**WHEREAS**, the ballot summary for Proposal 6005/Revision 5 asks voters statewide to vote for or against a single amendment to the Florida Constitution that reads as follows:

CONSTITUTIONAL AMENDMENT

ARTICLE III, SECTION 3

ARTICLE IV, SECTIONS 4, 11

ARTICLE VIII, SECTIONS 1, 6

STATE AND LOCAL GOVERNMENT STRUCTURE AND OPERATION.—

Requires legislature to retain department of veterans' affairs. Ensures election of sheriffs, property appraisers, supervisors of elections, tax collectors, and clerks of court in all counties; removes county charters' ability to abolish, change term, transfer duties, or eliminate election of these offices. Changes annual legislative session commencement date in even numbered years from March to January; removes legislature's authorization to fix another date. Creates office of domestic security and counterterrorism within department of law enforcement; and

**WHEREAS**, among its other provisions, Proposal 6005/Revision 5 would deprive the people of Miami-Dade County of the elected form of county government that they have chosen in previous local elections by taking away local residents' right to create a form of local government that best represents Miami-Dade County's unique and diverse community; and

**WHEREAS**, it is anticipated that the Florida Association of Counties will take legal action on behalf of the people of all Florida counties to challenge Proposal 6005/Revision 5 and argue that Proposal 6005/Revision 5 misleads voters; and

**WHEREAS**, the Florida Association of Counties has taken the view that Proposal 6005/Revision 5 is a statewide issue that affects not just people who reside in those charter counties whose locally-chosen form of government would be directly preempted by Proposal 6005/Revision 5, such as Miami-Dade County and seven other counties, but also (i) people in the remaining 12 charter counties who are not currently directly affected, but who would lose the ability in the future to make such changes, and (ii) people in the remaining 47 non-charter counties that could someday become charter counties and lose such rights of local self-determination; and

**WHEREAS**, this Board would like to support the Florida Association of Counties in taking legal action to challenge CRC Proposal 6005/Revision 5, and authorize the County Attorney to provide legal support to and collaborate with the Florida Association of Counties on such legal action, including, but not limited to, filing an amicus brief if determined to be advantageous,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,** that this Board supports the Florida Association of Counties in taking legal action to challenge Constitution Revision Commission Proposal 6005/Revision 5, and authorizes the County Attorney to provide legal support to and collaborate with the Florida Association of Counties on such legal action, including, but not limited to, filing an amicus brief in support of the lawsuit if determined to be advantageous.

The Prime Sponsor of the foregoing resolution is Commissioner Dennis C. Moss. It was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Esteban L. Bovo, Jr., Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Daniella Levine Cava	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Joe A. Martinez	Jean Monestime
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
District 5 - Vacant	

The Chairperson thereupon declared the resolution duly passed and adopted this 15<sup>th</sup> day of May, 2018. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

JMM

Jess McCarty  
Oren Rosenthal